

**— EXHIBIT 4 —**

Christina Melito, et. al. vs. American Eagle Outfitters  
Deposition of Brooke Bowes

Page 1

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

CHRISTINA MELITO, CHRISTOPHER )  
LEGG, ALISON PIERCE, and )  
WALTER WOOD, Individually )  
and on behalf of all others )  
similarly situated, )  
Plaintiff(s), )  
vs. ) NO. 1:14-cv-02440-VEC  
AMERICAN EAGLE OUTFITTERS, )  
INC., a Delaware corporation, )  
AEO MANAGEMENT CO., a Delaware )  
corporation, and EXPERIAN )  
MARKETING SOLUTIONS, INC., )  
Defendant(s), )

\* \* \* \* \*

DEPOSITION OF BROOKE BOWES  
TAKEN ON BEHALF OF THE PLAINTIFFS/PUTATIVE CLASSES  
IN OKLAHOMA CITY, OKLAHOMA  
ON JUNE 14, 2017

\* \* \* \* \*

REPORTED BY: JILL A. RESETAR, CSR

Christina Melito, et. al. vs. American Eagle Outfitters  
Deposition of Brooke Bowes

Page 2

1 APPEARANCES:

2

3 For the Objectors Kara Bowes and Brooke Bowes:

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Christina Melito, et. al. vs. American Eagle Outfitters  
Deposition of Brooke Bowes

Page 3

## 1 TABLE OF CONTENTS

2	Stipulations . . . . .	4
3	Direct Examination By Ms. McEntee. . . . .	5
4	Cross Examination By Mr. Isaacson. . . . .	33
5	Further Direct Examination By Ms. McEntee. . . . .	37
6	Jurat. . . . .	40
7	Correction Sheet . . . . .	41
8	Reporter's Certificate . . . . .	42

10

## EXHIBITS

11

12	NO.	DESCRIPTION	PAGE
13	1	Declaration. . . . .	14
14	2	Declaration. . . . .	17
15	1	Agreement. . . . .	27

16

17

18

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20

21

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Christina Melito, et. al. vs. American Eagle Outfitters  
Deposition of Brooke Bowes

Page 4

1 S T I P U L A T I O N S

2

3 It is hereby stipulated that the  
4 deposition of BROOKE BOWES may be taken pursuant to  
5 the Federal Rules of Civil Procedure and pursuant to  
6 Notice on June 14, 2017, before Jill A. Resetar,  
7 Certified Shorthand Reporter within and for the  
8 State of Oklahoma.

9 It is stipulated that all objections  
10 to questions, except as to the form of the question  
11 and the responsiveness of the answer, may be made at  
12 the time of trial, when said deposition is offered  
13 into evidence.

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Christina Melito, et. al. vs. American Eagle Outfitters  
Deposition of Brooke Bowes

Page 5

1                               BROOKE BOWES,  
2   of lawful age, being first duly sworn, deposes and  
3   says in reply to the questions propounded as  
4   follows:

5                               \* \* \* \* \*

6                               DIRECT EXAMINATION

7   BY MS. McENTEE:

8           Q.   Please state your name for the record and  
9   spell your first and last name.

10          A.   Brooke, B-r-o-o-k-e, Bowes, B-o-w-e-s.

11          Q.   And I'll probably alternate by calling you  
12   Brooke and Ms. Bowes; is that okay?

13          A.   Yes.

14          Q.   Okay. Have you ever been deposed before?

15          A.   No.

16          Q.   I'm going to go through a number of rules  
17   with you, so that we can be clear about how this  
18   should go. It's important that you understand my  
19   questions, so if at any time I've asked you a  
20   question that doesn't make sense or that you need  
21   clarity for, will you ask me to clarify?

22          A.   Yes.

23          Q.   If you don't ask me to clarify, I'm going  
24   to assume that you understood the question and that  
25   your answer is responsive to that question. Okay?

Christina Melito, et. al. vs. American Eagle Outfitters  
Deposition of Brooke Bowes

Page 6

1 A. Okay.

2 Q. The court reporter is taking down  
3 everything that we say, so it's important, one, that  
4 we answer verbally versus a nod or an "uh-huh," so  
5 "yes" or "no" or some other sort of response is what  
6 we want; do you understand that?

7 A. Yes.

8 Q. Okay. And it's also important that we not  
9 talk over one another, which is common in sort of  
10 everyday conversation, because it's hard for her to  
11 record what each of us is saying at the same time;  
12 do you understand that?

13 A. Yes.

14 Q. You can take a break at any time with one  
15 exception, and that's if I have a question pending.

16 A. Okay.

17 Q. Do you understand that?

18 A. Yes.

19 Q. Have you taken any medications or are you  
20 on any other substances that would affect your  
21 ability to give clear testimony today?

22 A. No.

23 Q. Do you have any legal training?

24 A. No.

25 Q. Are you in school?

Christina Melito, et. al. vs. American Eagle Outfitters  
Deposition of Brooke Bowes

Page 7

1 A. Yes.

2 Q. Where are you in school?

3 A. University of Central Oklahoma.

4 Q. And what are you studying there?

5 A. Nursing.

6 Q. What year?

7 A. I'm a junior. I will be a senior in the  
8 fall.

9 Q. And do you expect to graduate after your  
10 senior year?

11 A. No.

12 Q. How much further education do you intend to  
13 complete?

14 A. I will have two more years.

15 Q. Have you ever hired legal counsel to assist  
16 you with any type of matter?

17 A. No.

18 Q. When did you graduate from high school?

19 A. 2014.

20 Q. What is your relationship with Kara Bowes?

21 A. She is my mother.

22 Q. Have you ever heard of the Telephone  
23 Consumer Protection Act?

24 A. Not before this case.

25 Q. I'm going to probably refer to the



Christina Melito, et. al. vs. American Eagle Outfitters  
Deposition of Brooke Bowes

Page 8

1 Telephone Consumer Protection Act as TCPA going  
2 forward; is that okay?

3 A. Yes.

4 Q. When you say "not before this case," can  
5 you put a date to when you first heard about the  
6 TCPA?

7 A. No.

8 Q. Why are you unable to provide a date?

9 A. I had just read about it.

10 Q. Read about the TCPA or the case?

11 A. The TCPA.

12 Q. And you read about the TCPA in conjunction  
13 with what? Give me some context.

14 A. This case. I had looked into it.

15 Q. So you looked into this case?

16 A. The Telephone Consumer Protection Act.

17 Q. And you can't give me any timing as to when  
18 that occurred?

19 A. No.

20 Q. Do you remember when you indicated that you  
21 thought you got texts in this case?

22 A. I'm sorry, what was the question?

23 Q. Well, it's hard for me to understand why  
24 you don't know when you looked into TCPA, is it  
25 within six months, a year, two years ago?

Christina Melito, et. al. vs. American Eagle Outfitters  
Deposition of Brooke Bowes

Page 9

1 A. No. It was within six months.

2 Q. Okay. That's fine. I don't expect you to  
3 remember the day that you looked into the TCPA.

4 A. Okay.

5 Q. And what did you do to look into the TCPA?

6 A. I Googled it.

7 Q. So based on the research that you did into  
8 the TCPA, what is your understanding of what the  
9 TCPA does?

10 A. It protects from getting spam messages.  
11 You know, the average consumer being spammed by  
12 businesses with text messages promoting their  
13 business.

14 Q. Before this case, did you ever receive  
15 texts to your cell phone that you thought violated  
16 the TCPA?

17 A. From other companies?

18 Q. Yes.

19 A. No.

20 Q. So you've never received spam text to your  
21 phone?

22 A. No.

23 Q. Other than now?

24 A. Correct.

25 Q. What about telephone calls to your cell

Christina Melito, et. al. vs. American Eagle Outfitters  
Deposition of Brooke Bowes

Page 10

1 phone that you didn't consent to, did you ever  
2 receive anything like that prior to this case?

3 A. No.

4 Q. Did you consider filing your own lawsuit  
5 against American Eagle?

6 A. No.

7 Q. Why not?

8 A. I mean, it's not something that I would --  
9 I don't know. I didn't think that it was -- I don't  
10 know how to put this. Pretty much I heard about it  
11 through my mother, so I wouldn't think to do it  
12 myself, because I didn't know that it was an actual  
13 case. I didn't know -- I didn't know what was going  
14 on, until I heard about it from her.

15 Q. So can you just kind of go back and tell me  
16 how that went, how you heard about the case and how  
17 that conversation went and what happened next?

18 A. So pretty much she had gotten a claim form  
19 in the mail. That was the only thing in the mail  
20 that day. And she had mentioned something to me  
21 about, "Oh, claim forms," you know, and she got one  
22 in the mail. And so she was, like, "Hey, let's look  
23 at this, I got a claim form, if you ever get one of  
24 these, look into it." And she was, like, "It's for  
25 American Eagle. I get texts from American Eagle, do

Christina Melito, et. al. vs. American Eagle Outfitters  
Deposition of Brooke Bowes

Page 11

1     you get texts from American Eagle?"

2                     And I was, like, "Actually, I do. So that  
3     was something I will look into." When I looked into  
4     it, I never got a claim form, but I looked into it,  
5     saw on my rewards that I was not opted into text  
6     messages, yeah, I continue to get them, so...

7             Q.     When you say "looked into it," what do you  
8     mean? What did you did to look into it?

9             A.     I had Googled it. I had looked -- I think  
10    I viewed an article, but I'm not sure.

11            Q.     So we talked earlier about you Googling the  
12    TCPA, is that what you're referring to now, are you  
13    talking about having Googled this specific lawsuit?

14            A.     Yes.

15            Q.     Yes, the TCPA or, yes, the specific  
16    lawsuit?

17            A.     The specific lawsuit.

18            Q.     Okay. So you remember maybe finding an  
19    article about it and then what did you do?

20            A.     That was pretty much it. I told my mom,  
21    "Hey, I do get these text messages, I'm not opted  
22    into them, so I think I would be a good candidate  
23    for this case."

24            Q.     And what did you do to determine whether or  
25    not you opted into the text or didn't opt in?

Christina Melito, et. al. vs. American Eagle Outfitters  
Deposition of Brooke Bowes

Page 12

1 A. I wasn't -- it said, "Mobile alerts, none."

2 Q. And when you say "it," what are you  
3 referring to?

4 A. My American Eagle reward settings.

5 Q. So you have an account with American Eagle?

6 A. Correct.

7 Q. Okay. And so do you regularly shop at  
8 American Eagle?

9 A. No.

10 Q. But you have in the past?

11 A. Yes.

12 Q. Such that you created an account?

13 A. Correct, yeah.

14 Q. Do you know when you created that account?

15 A. No.

16 Q. And so just walk me through, to the degree  
17 you can remember, because I know the website is not  
18 open in front of you. What did you do to go into  
19 your account and determine that you weren't opted  
20 in?

21 A. I had to log in, which at this point, I  
22 didn't even remember my log in information, because  
23 I never log into it anymore, like, retrieve my  
24 password, re-set it. Once I logged in, I had to go  
25 to the settings menu, and look at my account info,

Christina Melito, et. al. vs. American Eagle Outfitters  
Deposition of Brooke Bowes

Page 13

1 and there it had my address and then "Mobile alerts,  
2 none."

3 Q. Okay. And do you remember having chose  
4 that option "none" for your mobile alerts?

5 A. I don't remember.

6 Q. Okay. And you assumed that whatever you  
7 saw related to mobile alerts was therefore connected  
8 with whatever texts you were receiving on your  
9 phone?

10 A. Correct.

11 Q. So I don't think you answered my question,  
12 but you might have, which was why didn't you  
13 consider bringing your own lawsuit, and that may not  
14 have been the actual question I asked, but that's my  
15 question now.

16 A. I did not realize that -- well, I knew that  
17 I got texts from American Eagle, but I didn't know  
18 that I had even a choice to opt out, so when I saw  
19 that there is a Telephone Consumer Protection Act, I  
20 was, like, well, that would make sense, and I logged  
21 into mine, and realized that I was not supposed to  
22 be getting those.

23 Q. So I think you testified earlier you did  
24 not get the postcard that your mom got?

25 A. Correct.

Christina Melito, et. al. vs. American Eagle Outfitters  
Deposition of Brooke Bowes

Page 14

1 Q. And you also did not get an email, did you,  
2 notifying you about the case?

3 A. Not that I'm aware of.

4 Q. And the only way you knew about this case  
5 was from hearing about it from your mom?

6 A. Correct.

7 Q. Okay. And just so I want to make sure that  
8 we're talking about the same claim form, your mom's  
9 claim form.

10 MS. McENTEE: Could we mark this  
11 as Exhibit 1?

12 (Exhibit No. 1 marked  
13 for identification and made a part of  
14 the record.)

15 Q. (By Ms. McEntee) So I've handed you what's  
16 been marked as Exhibit 1. And that, I believe, is  
17 the declaration that your mom submitted in support  
18 of the objection to the settlement in this case;  
19 correct?

20 A. Yes.

21 Q. Take a look at Exhibit A to Exhibit 1.

22 A. (Witness complies.)

23 Q. Is that the claim form that your mom --  
24 that you understand your mom submitted with the  
25 notice on the back?

Christina Melito, et. al. vs. American Eagle Outfitters  
Deposition of Brooke Bowes

Page 15

1 A. Yes.

2 Q. Okay. Did you take a look at that notice  
3 prior to submitting your own claim in this case?

4 A. I submitted mine on-line.

5 Q. What I'm asking is: Did you read the  
6 notice that's Exhibit A to Exhibit 1, before you  
7 submitted your claim on-line?

8 A. No.

9 Q. So I'm looking at specifically the page 2  
10 of Exhibit A, which is on the back, which is the  
11 notice provision. Do you see where it says, "Why am  
12 I getting this notice?"

13 A. Yes.

14 Q. And do you see, also, where says, "You are  
15 identified as someone who may have received one of  
16 these text messages based on AEO records"?

17 A. Yes.

18 Q. You never got anything that told you that  
19 you were identified as someone who may have received  
20 one of these text messages based on AEO records;  
21 right?

22 A. No.

23 Q. You talked about having submitted your  
24 claim online, and so you did that via the specific  
25 settlement website that was designated for this



Christina Melito, et. al. vs. American Eagle Outfitters  
Deposition of Brooke Bowes

Page 16

1 case; is that right?

2 A. Yes.

3 Q. When you went to the settlement website,  
4 did you look at the home page before you submitted  
5 your claim to get information about what the  
6 settlement was about?

7 A. Yes.

8 Q. Did you see on the home page an advisement  
9 of sorts that said that the settlement class was  
10 limited to a subset of approximately 618,289 people  
11 that American Eagle had identified?

12 A. Could you repeat that?

13 Q. Sure. When you went to the home page, did  
14 you see a notice there that said that the settlement  
15 class was limited to a subset of approximately  
16 618,289 persons that American Eagle had identified?

17 A. I don't remember.

18 Q. Do you remember whether you reviewed any of  
19 the documents that were on the website?

20 A. I don't remember.

21 Q. In case this jogs your memory, one of the  
22 documents on the website was entitled "Class  
23 Notice."

24 A. Uh-huh.

25 Q. And it also talks about the parameters of

Christina Melito, et. al. vs. American Eagle Outfitters  
Deposition of Brooke Bowes

Page 17

1 who is and who isn't in the settlement class, do you  
2 remember whether you read that?

3 A. No.

4 Q. Do you understand that individuals, who are  
5 not on this list of 618,000, but who believe that  
6 American Eagle sent them unlawful texts, are not  
7 prohibited from pursuing their claims under the  
8 settlement agreement?

9 A. Would you, like, word that a little bit  
10 differently?

11 Q. Sure.

12 Do you understand that if you're not on the  
13 list of 618,000 people, but you think that American  
14 Eagle's texts were unlawful, that you were not  
15 prohibited by the settlement from pursuing American  
16 Eagle for those texts?

17 A. Yes.

18 Q. Do you understand that?

19 A. Yes.

20 (Exhibit No. 2 marked  
21 for identification and made a part of  
22 the record.)

23 Q. (By Ms. McEntee) I'm handing you Exhibit  
24 2. And as I understand it, this is the declaration  
25 that you submitted in support of the objection in

Christina Melito, et. al. vs. American Eagle Outfitters  
Deposition of Brooke Bowes

Page 18

1     this case; is that right?

2           A.     Yes.

3           Q.     And as I understand Exhibit A to Exhibit 2,  
4     is the receipt that you got from submitting your  
5     online claim; is that correct?

6           A.     Yes.

7           Q.     Do you see the second line of the  
8     certification language at the bottom, that says this  
9     claim form may be researched and verified by  
10    American Eagle Outfitters and the claims  
11    administrator?

12          A.     Where?

13          Q.     Same page you were there. Do you see where  
14    it says "Claim Information, Certification" at the  
15    bottom there?

16          A.     Yes.

17          Q.     In bold?

18                 Do you see that part where it says, "This  
19    claim form may be researched and verified by  
20    American Eagle Outfitters and the claims  
21    administrator"?

22          A.     Yes.

23          Q.     Did you ever contact the claims  
24    administrator to determine whether you were on the  
25    list of class members?

Christina Melito, et. al. vs. American Eagle Outfitters  
Deposition of Brooke Bowes

Page 19

1 A. No.

2 Q. As far as you know, did your lawyer ever  
3 contact the claims administrator to determine  
4 whether you were on the list?

5 A. Not that I know of.

6 Q. Did you ever contact me or Keith Keogh or  
7 Beth Terrell, who were the class counsel in this  
8 case, to determine whether you were on the list of  
9 class members?

10 A. No.

11 Q. As far as you know, did your lawyer ever  
12 contact me or Beth Terrell or Keith Keogh to  
13 determine whether you were on the list?

14 A. Not that I know of.

15 Q. Since filing your objection, have you  
16 learned that neither your name nor your cell phone  
17 number are on the list of class members who settled  
18 their claims against American Eagle?

19 A. No.

20 Q. So I can represent to you that neither your  
21 name or your cell phone number are on that list of  
22 618,000 persons, and so given this information, why  
23 do you believe you have standing to object to the  
24 settlement?

25 A. I get texts, I am not opted into them, I

Christina Melito, et. al. vs. American Eagle Outfitters  
Deposition of Brooke Bowes

Page 20

1 feel I should be protected by the TCPA.

2 Q. And you can do that by suing American Eagle  
3 or pursuing your claims in some other way; correct?

4 A. Yes.

5 Q. So do you understand that if you're not a  
6 class member, you don't have to opt out, because  
7 you're never in?

8 A. Opt out of what?

9 Q. The settlement.

10 A. Okay.

11 Q. If you're not part of the class, you don't  
12 have to take any action to opt out, and you don't  
13 have any standing to object; do you understand that?

14 A. Okay. Yes.

15 Q. But understanding that, I don't agree that  
16 you're in the class. And I'm the one who settled  
17 this case. I want to go back and talk about your  
18 declaration for a minute, and specifically paragraph  
19 2. And just on the second page there, where you  
20 say, "I submit this declaration in support of my  
21 objection to proposed class action settlement  
22 agreement, incentive awards and attorneys' fees."

23 But there's nowhere else in this  
24 declaration do I see the reasons why you're  
25 objecting to these things. And so I want to talk a

Christina Melito, et. al. vs. American Eagle Outfitters  
Deposition of Brooke Bowes

Page 21

1 little bit about why you have a problem with the  
2 settlement. So tell me, what are the aspects of  
3 this settlement that you disagree with?

4 A. I saw that the class members, who received  
5 the settlement, did not receive as much as they  
6 should have for their damages.

7 Q. Where did you see that?

8 A. When I read it on-line.

9 Q. Where?

10 A. The time that I had Googled it.

11 Q. So you're talking about the settlement  
12 website?

13 A. Yes.

14 Q. What, specifically, did you read on the  
15 settlement website that told you that the class  
16 members did not receive as much as they should have?

17 A. I had read they had settled for 14-some-  
18 million. And the class members, after all their  
19 fees and everything, only received about \$14 apiece.

20 Q. And you say you read that on the settlement  
21 website?

22 A. Yes.

23 Q. If I were to tell you that there was  
24 nothing on the settlement website that would say  
25 that settlement members were only getting \$14

Christina Melito, et. al. vs. American Eagle Outfitters  
Deposition of Brooke Bowes

Page 22

1     apiece, would you be able to tell me what other  
2     source you went to, at which you saw some  
3     representation that the settlement class members  
4     were only getting \$14 apiece?

5           A.     It was on-line. I believe it was the  
6     website. But if you're saying that it's not, then  
7     it must have been somewhere else.

8           Q.     Did you crunch any numbers or do any math  
9     on your own to determine that the class members  
10    would not be getting as much money as they should?

11          A.     I had also seen in the same article, in the  
12    same place, that they should be -- you know, the  
13    damages were \$500 per text, up to \$1,500. And so if  
14    someone had even at least three text messages, they  
15    should at least receive \$1,500. And \$14 is not near  
16    that much.

17          Q.     Do you have any experience with class  
18    actions prior to this one?

19          A.     No.

20          Q.     And so do you have sort of any baseline  
21    understanding of what class members should or  
22    shouldn't get, from a legal perspective, in a class  
23    action?

24          A.     No.

25          Q.     I can represent to you that class counsel

Christina Melito, et. al. vs. American Eagle Outfitters  
Deposition of Brooke Bowes

Page 23

1 provided an estimate in the class notice that,  
2 depending on the claims rate, class members would  
3 receive between \$142 and \$285 per class member. Do  
4 you recall seeing anything like that?

5 A. No.

6 Q. Do you understand what a claims rate is?

7 A. No.

8 Q. Other than what you read, what other basis  
9 do you have, if any, to conclude that the class  
10 members did not receive as much money as they should  
11 have?

12 A. I don't.

13 Q. Do you understand that companies facing  
14 multi-million or multi-billion dollar judgements  
15 will sometimes choose to file for bankruptcy rather  
16 than pay out class members?

17 A. Yes.

18 Q. Do you know what it means to be an  
19 unsecured creditor?

20 A. No.

21 Q. Do you know that in the objection, that was  
22 filed on your behalf, your attorney suggested that  
23 if American Eagle were to declare bankruptcy, if you  
24 were a class member, you would simply become one of  
25 the new owners of the company?



Christina Melito, et. al. vs. American Eagle Outfitters  
Deposition of Brooke Bowes

Page 24

1 A. Yes.

2 Q. You understand that a representation was  
3 made?

4 A. Yes.

5 Q. And do you have any experience running a  
6 multi-million or multi-billion dollar company?

7 A. No.

8 Q. Do you have any educational experience that  
9 would give you the tools to do that?

10 A. No.

11 Q. Are you aware of any other class actions in  
12 which the class members became the owners of the  
13 company that opted to enter into bankruptcy?

14 A. No.

15 Q. So we've talked about one of the problems  
16 you have with the settlement being that you don't  
17 think the class members got as much as they should  
18 have, are there are other concerns that you have  
19 about the settlement?

20 A. No.

21 Q. Why didn't you call class counsel, and  
22 that's me, Beth Terrell, Keith Keogh, with any  
23 questions you had before you filed your objection?

24 A. That was kind of my first step was to talk  
25 to my attorney.

Christina Melito, et. al. vs. American Eagle Outfitters  
Deposition of Brooke Bowes

Page 25

1 Q. Do you know why your attorney didn't call  
2 me or Beth Terrell or Keith Keogh with any  
3 questions?

4 A. I do not.

5 Q. And if I understand correctly, you have not  
6 ever filed an objection to another class action  
7 before; is that correct?

8 A. Correct.

9 Q. Okay. You said a minute ago that your  
10 first step was to call your attorney, and is that  
11 Mr. Isaacson, who's here today?

12 A. Yes.

13 Q. How long have you known Mr. Isaacson?

14 A. I can't give you an exact date, but  
15 whenever I started this case.

16 Q. So you had not met Mr. Isaacson before you  
17 learned about this case?

18 A. No.

19 Q. And did you contact him about this case, or  
20 did he contact you?

21 A. Yes, I called him.

22 Q. How did you learn about him?

23 A. My mother.

24 Q. And that's because your mother had hired  
25 him in another case?

Christina Melito, et. al. vs. American Eagle Outfitters  
Deposition of Brooke Bowes

Page 26

1 A. I don't know.

2 Q. So you don't know what the relationship is  
3 between Mr. Isaacson and your mother?

4 A. He is also her attorney.

5 Q. Do you have any social relationship with  
6 Mr. Isaacson, other than him being your attorney?

7 A. No.

8 Q. Do you know whether your mother has any  
9 social relationship with Mr. Isaacson?

10 A. No.

11 Q. No, you don't know, or, no, they don't?

12 A. No, she does not.

13 Q. An attorney named Benjamin Nutley has also  
14 appeared as your attorney in this case, how long  
15 have you known him?

16 A. Since the case started.

17 Q. So you never met Mr. Nutley prior to this  
18 case?

19 A. No.

20 Q. Is it your understanding that your mom also  
21 hired Mr. Nutley previously as her counsel?

22 A. Correct.

23 Q. Are you aware of any other relationship  
24 between your mother and Mr. Nutley, other than him  
25 having previously represented her?

Christina Melito, et. al. vs. American Eagle Outfitters  
Deposition of Brooke Bowes

Page 27

1           A.     No.

2           Q.     Do you know whether Mr. Isaacson has ever  
3     agreed to withdraw an objection to a class action  
4     settlement in exchange for payment of money?

5           A.     I do not know.

6           Q.     Do you know whether Mr. Nutley has ever  
7     offered to withdraw an objection to a class action  
8     settlement in exchange for the payment of money?

9           A.     I do not know.

10          Q.     Do you know whether Mr. Isaacson has ever  
11     agreed to dismiss the appeal of the approval of a  
12     class action settlement in exchange for the payment  
13     of money?

14          A.     I do not know.

15          Q.     Do you know whether Mr. Nutley has ever  
16     agreed to dismiss the appeal of the approval of a  
17     class action settlement in exchange for the payment  
18     of money?

19          A.     I do not know.

20          Q.     So before we started today, Mr. Isaacson  
21     produced, on your behalf, an attorney retainer  
22     agreement between you and Mr. Isaacson.

23                         MS. McENTEE:   Could we mark this  
24     as an exhibit, please?

25                                 (Exhibit No. 3 marked

Christina Melito, et. al. vs. American Eagle Outfitters  
Deposition of Brooke Bowes

Page 28

1 for identification and made a part  
2 of the record.)

3 MR. VICTORIA: Adrienne?

4 MS. McENTEE: Yes.

5 MR. VICTORIA: Just so it's on the  
6 record, I'm going to request that we get copies of  
7 whatever was produced today. I assume you were  
8 going to give those to us anyway.

9 MS. McENTEE: Yeah. I only have  
10 the one, but I'm sure we can figure out how to get a  
11 copy here today.

12 MR. VICTORIA: Obviously, I don't  
13 need it right now, but after the deposition, if you  
14 guys can get us copies in some way, I'd appreciate  
15 it.

16 MS. McENTEE: Of course. And  
17 actually, you know, Rich, we might be able to pause  
18 and make copies and figure out a way to scan it to  
19 you, if that makes sense.

20 MR. VICTORIA: I don't think  
21 there's an issue right now. If, as it progresses, I  
22 get more curious or think that I need to ask some  
23 questions about it, I will. But as it stands, I  
24 think you guys can just proceed. I don't want to  
25 hold things up.

Christina Melito, et. al. vs. American Eagle Outfitters  
Deposition of Brooke Bowes

Page 29

1 MS. McENTEE: Okay. Thank you.

2 MR. VICTORIA: Thanks.

3 Q. (By Ms. McEntee) So I'm going to show this  
4 to you and have you just identify that, if you will,  
5 as being the agreement that you have with  
6 Mr. Isaacson as, "yes" or "no," is that the  
7 agreement?

8 MR. ISAACSON: If it would help  
9 you, I do have another copy of it.

10 MS. McENTEE: Great. Thank you.

11 THE WITNESS: Yes.

12 [REDACTED]  
13 [REDACTED]  
14 [REDACTED]  
15 [REDACTED]  
16 [REDACTED]  
17 [REDACTED]  
18 [REDACTED]  
19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED]  
22 [REDACTED]  
23 [REDACTED]  
24 [REDACTED]  
25 [REDACTED]

Christina Melito, et. al. vs. American Eagle Outfitters  
Deposition of Brooke Bowes

Page 30

1 [REDACTED]  
2 [REDACTED]  
3 [REDACTED]  
4 [REDACTED]  
5 [REDACTED]  
6 [REDACTED]  
7 [REDACTED]  
8 [REDACTED]  
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10 [REDACTED]  
11 [REDACTED]  
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19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED]  
22 [REDACTED]  
23 [REDACTED]  
24 [REDACTED]  
25 [REDACTED]

Christina Melito, et. al. vs. American Eagle Outfitters  
Deposition of Brooke Bowes

Page 31

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5 Q. Did you also sign an agreement like this --  
6 similar to this with Mr. Nutley?

7 A. Not that I know of.

8 Q. Okay. Have you met Mr. Nutley?

9 A. Not in person, no.

10 Q. But you've talked with him on the phone?

11 A. No.

12 Q. So you never talked with him or met him?

13 A. No.

14 Q. And, obviously, I don't want to get into  
15 what you guys talked about, but have you ever  
16 exchanged correspondence with him?

17 A. Email, yes.

18

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23 Q. I may have asked this before, I don't  
24 remember, so I'm going to ask again: Have you ever  
25 submitted a claim in a class action before this one?



Christina Melito, et. al. vs. American Eagle Outfitters  
Deposition of Brooke Bowes

Page 32

1 A. No.

2 Q. Have you ever been a class representative  
3 in a class action?

4 A. No.

5 Q. Do you know whether you've ever received a  
6 notice in a class action?

7 A. Not that I know of.

8 MS. McENTEE: Okay. What I would  
9 like to do is just take a break here and see if I  
10 have anymore questions.

11 THE WITNESS: Okay.

12 MS. McENTEE: And then, at that  
13 point, Mr. Victoria, if you have questions, you can  
14 ask them. But I'm just going to take a quick break.

15 MR. VICTORIA: Okay.

16 (Short break.)

17 MS. McENTEE: I don't have any  
18 further questions.

19 And, Rich, just for the record, do  
20 you have any questions for Brooke?

21 MR. VICTORIA: No, not at this  
22 time.

23 MS. McENTEE: Okay. Mr. Isaacson?

24 MR. ISAACSON: I do have a few  
25 questions.

Christina Melito, et. al. vs. American Eagle Outfitters  
Deposition of Brooke Bowes

Page 33

1 CROSS EXAMINATION

2 BY MR. ISAACSON:

3 Q. Brooke, you were asked about a list of,  
4 quote, approximately 618,281 persons, end quote,  
5 what does the "approximately" mean to you?

6 A. About average.

7 Q. Okay. Does that suggest the class might be  
8 more than 618,281 persons?

9 A. Yes.

10 Q. Or perhaps less than that many people?

11 A. Yes.

12 Q. Okay. Did you ever see such a list?

13 A. No.

14 Q. It wasn't on-line, when you were looking  
15 for information -- or you didn't see it on-line?

16 A. No.

17 Q. Let me clarify, you did not see such a list  
18 on-line when you were looking for information?

19 A. No.

20 Q. Did you see drafts of your objection in the  
21 case before it was filed?

22 A. Yes.

23 Q. Did I send you drafts of the objection  
24 before I filed it?

25 A. I believe so.

Christina Melito, et. al. vs. American Eagle Outfitters  
Deposition of Brooke Bowes

Page 34

1 Q. Did you read those drafts, at all?

2 A. Yes.

3 Q. Now, you object to the amount of the  
4 settlement in this case; is that correct?

5 A. Yes.

6 Q. Are you aware that the named plaintiffs are  
7 asking to be paid additional money?

8 A. Could you repeat that?

9 Q. Are you aware that the named plaintiffs,  
10 the class representatives, who are entering the  
11 settlement for the class, are asking for additional  
12 money to that which other class members are getting?

13 A. Not that I know of.

14 Q. Okay. Do you have any objection to the  
15 attorneys' fees in the case?

16 A. No.

17 MR. ISAACSON: Okay. I will ask  
18 to seal the deposition on account of the fact that  
19 the retainer is discussed, at least the portions of  
20 the retainer agreement that are discussed, pursuant  
21 to the protective order?

22 MS. McENTEE: I agree that the  
23 exhibit, itself, may be sealed. But we did not get  
24 into the financial particulars of what your hourly  
25 rate was as part of the testimony, so I don't think

Christina Melito, et. al. vs. American Eagle Outfitters  
Deposition of Brooke Bowes

Page 35

1     that that should be sealed. I could have asked  
2     those questions without the document, but I agree  
3     that the document may be sealed as deemed  
4     confidential.

5                     MR. ISAACSON: I request that the  
6     portions of document discussing the retainer  
7     agreement be sealed.

8                     MS. McENTEE: We'll just have to  
9     address that with the court later.

10                    MR. ISAACSON: I have no further  
11     questions.

12                    MS. McENTEE: Mr. Victoria, do you  
13     have any questions?

14                    MR. VICTORIA: No.

15                    MS. McENTEE: And I don't have any  
16     further questions either. I think we're done.

17                    (Discussion held off the record.)

18                    MR. ISAACSON: Back on the record.

19         Q.     (By Mr. Isaacson) I would like to ask,  
20     again, I sent you copies of the objection -- drafts  
21     of the objection, before it was filed. I've sent  
22     you the objection, itself. Do you recognize this  
23     document, which has got ECF document from the Pacer  
24     file and 271 at the top?

25         A.     Yes.

Christina Melito, et. al. vs. American Eagle Outfitters  
Deposition of Brooke Bowes

Page 36

1 Q. And what is that document?

2 A. This is -- well, this one is our objection.

3 Q. The title is right there, if you need it.

4 A. Oh, our settlement -- well, the settlement.

5 Q. Well, it's not --

6 A. Oh, objection. Sorry.

7 Q. Okay. So this is the objection that I  
8 filed on behalf of Kara and Brooke Bowes. Can you  
9 review the table of contents, please?

10 A. (Witness complies.)

11 Q. Does that refresh your memory as to whether  
12 you objected to the attorneys' fees in this case?

13 MS. McENTEE: Counsel, I'm going  
14 to object. You can refresh her memory, when there  
15 is a answer "I don't know" or "I don't remember."  
16 She specifically testified that she did not object  
17 to attorneys' fees, so I don't think this is a  
18 proper recollection --

19 THE WITNESS: Whenever you said  
20 that, you said, "Do you reject to the attorneys'  
21 fees," I took it as I was rejecting to our attorney  
22 fees.

23 MS. McENTEE: I didn't ask you the  
24 question, your counsel did.

25 Q. (By Mr. Isaacson) Does this refresh your

Christina Melito, et. al. vs. American Eagle Outfitters  
Deposition of Brooke Bowes

Page 37

1 memory as to whether you objected to the attorneys'  
2 fees in this case?

3 A. Yes.

4 Q. And what is your position on the attorneys'  
5 fees in this case?

6 A. I do not agree with them. I object to  
7 them.

8 MS. McENTEE: Why do you object to  
9 the attorneys' -- I'm sorry. Are you finished? And  
10 then I'll --

11 MR. ISAACSON: Give me a couple  
12 more questions.

13 MS. McENTEE: Yeah.

14 Q. (By Mr. Isaacson) Your earlier answer was  
15 not relating to the attorneys' fees to be paid to  
16 the class counsel; is that what you said?

17 A. I thought that we were talking about our  
18 attorney fees, not --

19 Q. When you say "our attorney fees," what does  
20 "our attorney fees" mean?

21 A. Not the -- between you and I, not between  
22 the class.

23 MR. ISAACSON: Thank you. I have  
24 to further questions.

25 FURTHER DIRECT EXAMINATION

Christina Melito, et. al. vs. American Eagle Outfitters  
Deposition of Brooke Bowes

Page 38

1 BY MS. McENTEE:

2 Q. Would you agree that when I asked you  
3 earlier what you didn't like about the settlement,  
4 you did not mention attorneys' fees; isn't that  
5 true?

6 A. Yes.

7 Q. And when I asked you questions earlier  
8 about what you didn't like about the settlement, you  
9 didn't say anything about the named plaintiffs  
10 getting more money; isn't that right?

11 A. Correct.

12 Q. You didn't remember that you had a problem  
13 with those aspects of the settlement, until your  
14 attorney reminded you here on the record; isn't that  
15 right?

16 A. Yes.

17 MS. McENTEE: I don't have any  
18 more questions.

19 Rich, anything?

20 MR. VICTORIA: No, nothing here.

21 MS. McENTEE: I think we are done  
22 now.

23 MR. ISAACSON: I think so.

24 MS. McENTEE: I assume that you  
25 will want the opportunity to review your deposition

Christina Melito, et. al. vs. American Eagle Outfitters  
Deposition of Brooke Bowes

Page 39

1 and make any changes, if there are mistakes;  
2 correct?

3 THE WITNESS: Yes.

4 MS. McENTEE: We're going to send  
5 that to your attorney.

6 (Deposition concluded.)

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Christina Melito, et. al. vs. American Eagle Outfitters  
Deposition of Brooke Bowes

Page 40

JURAT

I, BROOKE BOWES, do hereby state under oath  
that I have read the above and foregoing deposition  
in its entirety and that the same is a full, true  
and correct transcription of my testimony so given  
at said time and place, except for the corrections  
noted.

\_\_\_\_\_  
BROOKE BOWES

Subscribed and sworn to before me, a Notary  
Public in and for the State of Oklahoma, by said  
witness, BROOKE BOWES, on this \_\_\_\_ day of \_\_\_\_\_,  
20\_\_.

\_\_\_\_\_  
Notary Public

My Commission Expires:\_\_\_\_\_

Christina Melito, et. al. vs. American Eagle Outfitters  
Deposition of Brooke Bowes

Page 41

1 ERRATA SHEET

2 I, BROOKE BOWES, in Oklahoma City, Oklahoma,  
3 Oklahoma County, Case No. 1:14-cv-02440-VEC, desire  
4 to make the following corrections:

5	PAGE	LINE	CORRECTION
6			
7	_____	_____	_____
8	_____	_____	_____
9	_____	_____	_____
10	_____	_____	_____
11	_____	_____	_____
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22	_____	_____	_____
23			
24			_____
25			BROOKE BOWES

Christina Melito, et. al. vs. American Eagle Outfitters  
Deposition of Brooke Bowes

Page 42

1 C E R T I F I C A T E

2

3

4 STATE OF OKLAHOMA )  
 ) SS:  
5 COUNTY OF OKLAHOMA)

6

7 I, Jill A. Resetar, a certified shorthand  
8 reporter within and for the State of Oklahoma,  
9 certify that BROOKE BOWES was by me sworn to testify  
10 the truth; that the deposition was taken by me in  
11 stenotype and thereafter transcribed by computer and  
12 is a true and correct transcript of the testimony of  
13 the witness; that the deposition was taken on JUNE  
14 14, 2017, at 9:07 a.m., at 914 N. Broadway, Suite  
15 500, Oklahoma City, Oklahoma; that I am not an  
16 attorney for or a relative of either party, or  
17 otherwise interested in this action.

18 Witness my hand and seal of office on the  
19 20th day of June 2017.

20

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Jill A. Resetar, CSR  
for the State of Oklahoma  
CSR # 01734

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27